

REMARKS

Applicant has studied the Office Action dated December 29, 2004 and has made amendments to the claims. It is submitted that the application, as amended, is in condition for allowance. Claims 1-9 and 20-25 are pending. Claims 3, 9, 20, and 23 are amended. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

In the Office Action, the Examiner:

- (2) objected to claims 3, 20, and 23 for informalities;
- (3-4) rejected claims 9 and 23-25 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; and
- (5) allowed claims 1-9 and 20-25.

(2) Objection to Claims for Informalities

As noted above, the Examiner objected to claims 3, 20, and 23 because of informalities. Specifically, in item 2, lines 1-2, the Examiner suggests that the phrase "the physical range" in claim 3 should be amended to recite "a physical range"; in item 2, lines 2-4, the Examiner suggests that the phrase "optical transmitter" in claim 3 should be amended to recite "infrared transmpter"; in item 2, lines 5-6, the Examiner suggests that the phrase "the device" in claim 20 should be amended to recite "the user device"; and in item 2, lines 7-8, the Examiner suggests that the term "the device" in claim 23 should be amended to recite "the user device."

All of the Examiner's suggested corrections have been made.

(3-4) Rejection under 35 U.S.C. §112

As noted above, the Examiner rejected claims 9 and 23-25 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner stated that in claim 9, there is insufficient antecedent basis for the limitation

"the incoming signal strength and that in claim 23 there is insufficient antecedent basis for the limitation "the method on the user device."

Claim 9 has been amended to now recite "*an incoming signal strength of the optical transmission pulses is measured and compared...*" Claim 3, from which *claim 9* depends, recites that optical transmission pulses are being transmitted. By exchanging "the" with "an", the limitation "incoming signal strength" in claim 9 is now introduced for the first time and is modified by "of the optical transmission pulses" to further clarify the recitation.

Claim 23 has been amended to remove the limitation "the method on the user device."

It is accordingly believed that the claims now meet the requirements of 35 U.S.C. § 112, second paragraph.

#### (5) Allowable Subject Matter

The Applicant wishes to thank Examiner Phan for indicating the allowable subject matter of claims 1-9 and 20-25.

#### CONCLUSION

In this Response, Applicant has amended certain claims. In light of the Office Action, Applicant believes these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicant respectfully submits that the claim amendments do not limit the range of any permissible equivalents.

Applicant acknowledges the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment are limited to the territory taught

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7 of 9

09/775,374

by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

Applicant respectfully submits that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

It is believed that no fee is due with this Amendment. However, if any fees are due with respect to Sections 1.16 or 1.17, please charge to the deposit account of the undersigned firm, Acct. No. 09-0441.

**PLEASE CALL** the undersigned if that would expedite the prosecution of this application.

Respectfully submitted,

Date: February 25, 2005

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ARC920000052US1

8 of 9

09/775,374